



Paper No.

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OFFICE OF PETITIONS

In re Application of :
Ould-Brahim :
Application No. 10/623,400 :DECISION GRANTING PETITION
Filed: 17 July, 2003 :
Attorney Docket No. 120.288. 38898- :
0047 :

This is a decision on the petition filed on 11 August, 2003, requesting that the above-identified application be accorded a filing date of 17 July, 2003, instead of a filing date of 18 July, 2003.

Petitioner requests the earlier filing date on the basis that the application was deposited in Express Mail service on 17 July, 2003, pursuant to the requirements of 37 CFR 1.10. Petitioner acknowledges that the date of the deposit in Express Mail shown on petitioner's Express Mail receipt, as completed by the USPS, is 18 July, 2003, but argues that the application was actually deposited with the USPS on 17 July, 2003.

The present petition is accompanied by, *inter alia*, a copy of USPS Express Mail Label No. EV329723873US, the Label Number found on the itemized transmittal letter accompanying the application papers, showing a "date-in" of 07/18/03. Petitioner has included an affidavit of counsel's office manager, Carol Mahoney, stating that she deposited the application in an Express Mail drop box on 17 July, 2003, prior to the last scheduled pickup of the day. Petitioners have also included a copy of a letter to the client prepared for and signed by petitioner's counsel on 17 July, 2003, after the application was deposited in Express Mail service and within one business day of deposit.

In view of the evidence present in the file, it is concluded that the correct date of deposit in Express Mail service is 17 July, 2003. Therefore, the application is entitled to a filing date of 17 July, 2003.

The petition is granted. No petition fee is due and none has been charged.

It is noted that petitioner asserts that counsel's office manager completed the "date-in" before depositing the application in Express Mail, and that the USPS altered the "date-in". In future Express Mail filings, the "date-in" must be completed by the USPS, not petitioner. The entry of the "date-in" by the USPS verifies the date the USPS accepted the application. If petitioner completes the "date-in", however, that date does not serve as evidence of the date that the USPS accepted the application.

The application is being returned to Office of Initial Patent Examination for further processing with a filing date of 17 July, 2003.

Telephone inquiries may be directed to the undersigned at 703-308-6918.



Douglas I. Wood
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